

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Writ Petition No.3539 of 2004

Shri Anant Kadam

Petitioner

Vs.

The Registrar,
University of Bombay & ors.

Respondents

Mr.S.A.Sawant for petitioner.

Mr.R.A.Rodrigues with Mr.B.V.Phadnis for Resp.Nos.1
and 2.

Mr.Vinay Sonpal, AGP for Resp.no.3.

CORAM: B.H.MARLAPALLE & NARESH H.PATIL,JJ.

September 07, 2006.

P.C.

1. Heard Mr.Sawant, the learned counsel for the petitioner, Mr.Rodrigues, the learned counsel for the Respondent - University and Mr.Sonpal, the learned AGP for the respondent - State authorities.

2. The petitioner vide his letter dated 27th July 1990 addressed to the Registrar of the Respondent - University applied for voluntary retirement from 1st May 1991 on account of his ill health. In the said application he also stated that he had completed 22 years of service and had attained the age of 55 years. This voluntary retirement application was followed by reminders dated 1st September 1990 and 1st November 1990. The university by its letter

dated 1/12/1990 called upon the petitioner to submit his resignation letter which he did vide the letter dated 7th December 1990. The resignation was accepted by the University and he was relieved from service with effect from 31st January 1991 as per the order dated 15th January 1991.

3. The petitioner has been representing to the University for the benefit of voluntary retirement more so when he had put in more than 20 years of service and when he did not succeed in persuading the respondents he filed the instant petition. The petition was also referred to the Pension Adalat. Vide its order dated 4/2/2006 the Pension Adalat recorded its opinion that the petitioner was required to be given the benefit of voluntary retirement, though the issue whether the resignation letter could be accepted as voluntary retirement was an issue to be decided by this Court. As per the earlier directions of the Pension Adalat the University had submitted a proposal on 15th September 2005 to the State Government recommending the petitioner's case for voluntary retirement and his pensionary benefits to be fixed accordingly. We are now informed by Mr. Sonpal, the learned AGP that the proposal submitted

by the University has been approved by the Finance Ministry today and, therefore, it would be further acted upon by the Secretary, Higher and Technical Education Department, Government of Maharashtra.

4. Let it be noted that we have no doubt in our mind regarding the eligibility of the petitioner for the benefits of voluntary retirement. As referred to earlier in the very first application dated 27th July 1990 the petitioner had applied for voluntary retirement and it was the University alone which called upon the petitioner vide its memo dated 1/12/1990 to submit a letter of resignation which the petitioner did on 7th December 1990. If a notice of three months is required for claiming the benefits of voluntary retirement, surely from 27th July 1990 till 15th January 1991, the period was definitely more than three months. For some reason or the other the petitioner's case has been tossed from the University to the Department of the Government of Maharashtra and he has been denied the benefits due to him and in fact the Pension Adalat in its earlier order dated 25th April 2005 noted that the petitioner had put in about 22 years and 9 months of service and had attained the age of 70 years. He is a well known

writer and has been awarded literary awards at international levels. His case deserved to be considered specifically because the other employees who had similarly tendered resignations in similar circumstances were granted pension and this fact was not disputed either by the University or by the Government. It was under these circumstances that the University was called upon to submit its recommendation to the State Government for extending the benefits of pension to the petitioner.

5. In the premises, we allow the petition and direct that the proposal approved by the Ministry of Finance, Government of Maharashtra today be cleared by the Secretary, Higher and Technical Education Department, Government of Maharashtra as expeditiously as possible and in any case within a period of four weeks from today so that the petitioner receives the final order holding him eligible for pensionary benefits.

(NARESH H. PATIL,J.)

(B.H.MARLAPALLE,J.)